

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ROSALYN KENDALL,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 2:06 CV 676-ID
)	
USAA INSURANCE AGENCY, INC.,)	
)	
)	
Defendant.)	

PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS

COMES NOW the Plaintiff, in response to the Defendant's Motion to Dismiss, states and shows as follows:

1. In light of the Defendant's motion and *Bitinas v. Roback*, 2005 W.L. 327137 (D.Conn.2005), setting forth that the Defendant is a citizen of each and every state in which it has a member, the Plaintiff respectfully requests that this Court dismiss this action without prejudice, with leave to re-file in state court.

/s/ Lindsey O. Hill
Richard F. Horsley (HOR023)
Lindsey O. Hill (HIL055)
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CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2006, I electronically filed the foregoing with the clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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